

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MIKE HARRIS and JEFF DUNSTAN,  
individually and on behalf of a class of similarly  
situated individuals,

Plaintiffs,

v.

COMSCORE, INC., a Delaware corporation,

Defendant.

Case No. 1:11-cv-05807

Hon. James F. Holderman

Magistrate Judge Young B. Kim

**JOINT STATUS REPORT**

Pursuant to the Court's July 26th Minute Order, Plaintiffs Mike Harris and Jeff Dunstan (collectively, "Plaintiffs") and Defendant comScore, Inc. ("Defendant" or "comScore"), hereby submit this Joint Status Report to apprise the Court of any written discovery issues.

**I. PLAINTIFFS' POSITION**

On July 31, 2013, Plaintiff Dunstan propounded his First Set of Interrogatories and Requests for the Production of Documents and Plaintiff Harris propounded his Second Set of Interrogatories on Defendant comScore. Plaintiffs' requests seek information about: (1) the circumstances surrounding the design and development of OSSProxy; (2) the process and manner in which comScore determined the types of information that it collects and transmits from Panelists' computers through OSSProxy; (3) the value that comScore ascribes to the information collected, whether from the sale of the information or otherwise; (4) the process, manner, and circumstances surrounding the drafting of, and subsequent modifications to, any applicable Terms of Service, User License Agreements, and Privacy Policies; (5) the process by which comScore supposedly "fuzzifies" confidential information; (6) the process by which

comScore supposedly “purges” confidential information collected by OSSProxy; (7) the types of data that comScore makes available to its clients and third party bundling partners, whether by sale or otherwise, including their identities, any contracts and other agreements in place between them, and the total top-line revenue and profit generated from the same; (8) any and all complaints that comScore has received regarding OSSProxy; and (9) the contact information that comScore has for Class and Subclass members.

Plaintiffs believe that comScore’s discovery responses are deficient and in need of supplementation. Those deficiencies include comScore’s improper assertion of certain objections, its failure to answer Plaintiffs’ Interrogatories with sufficient detail (or provide any answers to certain Interrogatories at all), and its unwillingness to produce certain documents in response to Plaintiff Dunstan’s requests. Plaintiffs outline the deficiencies in comScore’s responses to their written discovery requests in a meet and confer letter sent on September 16, 2013, and have requested a meet and confer to take place on those issues.

At the same time, the Parties have also been meeting and conferring on notice-related issues. To date, the Parties have exchanged several letters and have held several conference calls regarding those issues and have scheduled a deposition to take place on October 3, 2013 relating to the same.

## **II. DEFENDANT’S POSITION**

On August 9, 2013, comScore propounded its Second Set of Interrogatories and First Set of Requests for Production of Documents to Plaintiffs, as well as its First Set of Requests for Admission to Harris and its First Set of Requests for Admission to Dunstan. Generally, comScore is seeking information pertaining to (1) Plaintiffs’ acceptance of comScore’s Privacy Statement, User License Agreement, and Downloading Statement; (2) the contractual agreement

between Plaintiffs and comScore or comScore's affiliates, and the terms thereof; (3) the type of information that Plaintiffs claim comScore collected from them, particularly the information that Plaintiffs claim exceeded their consent; (4) if and why Plaintiffs contend that comScore's fuzzification process violates the Stored Communications Act, the Electronic Communications Privacy Act, or the Computer Fraud and Abuse Act; (5) if and why Plaintiffs contend that comScore's fuzzification process is not a commercially viable effort to automatically filter confidential information; (6) if and why Plaintiffs contend that comScore's purging process is not a commercially viable effort to purge confidential information; (7) the damages or losses claimed by Plaintiffs under the Computer Fraud and Abuse Act; and (8) the programs or processes running on Plaintiffs' computers at the time they allegedly downloaded OSSProxy.

It is comScore's position that Plaintiffs' discovery responses, dated September 5, 2013, are deficient and require supplementation. For example, the majority of Plaintiffs' interrogatory answers are nonresponsive and Plaintiffs have also refused to produce responsive documents. These and other deficiencies have been detailed in a meet and confer letter to be sent to Plaintiffs on September 17, 2013.

Respectfully submitted,

**MIKE HARRIS** and **JEFF DUNSTAN**,  
individually and on behalf of a class of similarly  
situated individuals,

Dated: September 16, 2013

By: /s/ Rafey S. Balabanian  
One of Plaintiffs' Attorneys

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*Counsel for Plaintiffs and the Class and Subclass*

**COMSCORE, INC.**

Dated: September 16, 2013

By: /s/ Andrew H. Schapiro  
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**CERTIFICATE OF SERVICE**

I, Rafey S. Balabanian, an attorney, hereby certify that on September 16, 2013, I served the above and foregoing ***Joint Status Report***, by causing true and accurate copies of such paper to be filed and transmitted to all counsel of record via the Court's CM/ECF electronic filing system on this 16th day of September 2013.

/s/ Rafey S. Balabanian